

#### **Sec. 44-45. Amendments.**

- (a) *Intent.* For the purpose of establishing and maintaining sound, stable, and desirable development within the county planning jurisdiction, this chapter shall be amended to rezone an area, to extend the boundary of an existing zoning district, or to change the regulations and restrictions of an existing zoning district, only where necessary to correct a manifest error in this chapter or otherwise where necessary to promote the public health, safety, or general welfare. Any such amendment must reflect and achieve the purposes of the adopted land use plan.
- (b) *Initiation.* Subject to the limitations of the statement of intent in subsection (a) of this section, an amendment to this chapter may be initiated by the following:
  - (1) The board of commissioners on its own motion.
  - (2) The planning board.
  - (3) Application by any property owner or his agent.
- (c) *Filing and contents of application.* The procedure for filing for an amendment to this chapter and the contents of the application are as follows:
  - (1) *Filing of applications.* All applications for amendments to this chapter shall be in writing, signed, and filed with the zoning administrator.
  - (2) *Contents of application.* All applications for amendments to this chapter, without limiting the right to file additional material, shall contain at least the following:
    - a. If the proposed amendment would require a change in the official zoning atlas; that is, if the proposed amendment would change the zoning classification of only a portion of an existing parcel, a fully dimensional map, at a scale of not less than 100 feet nor more than ten feet to the inch, showing the portion of the parcel covered by the proposed amendment;
    - b. If applicable, a legal description of such land;
    - c. If applicable, a detailed statement of any alleged error in this chapter which would be corrected by the proposed amendment and a detailed explanation of the manner the proposed amendment will correct the alleged error; and
    - d. A detailed statement of all other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
- (d) *Referral of application to planning board and county planner.* The application for the proposed amendment shall be referred to the planning board and county planner in accordance with the following
  - (1) The zoning administrator, upon receipt of the application to amend this

chapter, which has been examined and approved as to form by the zoning administrator, shall refer the application to the planning board for study and report. The board of commissioners shall not enact the proposed amendment until 30 days after such referral to the planning board or until the planning board makes its report, whichever first occurs. The zoning administrator, concurrently with the referral to the planning board, shall refer the application to the county planner for the preparation of a report thereon.

- (2) The county planner shall prepare and submit a written report to the planning board prior to its meeting to consider the application and also to the board of commissioners prior to the public hearing described in subsection (e) of this section.
- (e) *Public hearing and notice.* A public hearing shall be held in accordance with the following:
  - (1) A public hearing shall be held by the board of commissioners before adoption of any proposed amendment to this chapter. Notice of the public hearing shall be given by publishing the notice at least twice in a newspaper of general circulation in the county, stating the time and place of such hearing and the substance of the proposed amendment. This notice shall appear in such newspaper for two successive weeks, with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing.
  - (2) In addition to notice required in subsection (e)(1) of this section, where the proposed amendment involves a change in the designation of any parcel of land, the zoning administrator shall, by first class mail, give notice of the public hearing to the owner of the parcel involved in the proposed amendment, if the owner is different from the applicant, as well as the owners, as shown on the tax rolls, of all land abutting the parcel involved in the proposed amendment. The zoning administrator shall also post a sign on the property giving notice of the pendency of the hearing.
- (f) *Public hearings by board of commissioners.* The board of commissioners shall conduct a public hearing on the proposed amendment at its regular monthly meeting.
- (g) *Action of board of commissioners.* After the public hearing on the application, the board of commissioners shall receive the recommendation of the planning board and the county planner. It shall then take one of the following actions:
  - (1) Approval of the application.
  - (2) Approval of a modified version of the application.
  - (3) Denial of the application.
- (h) *Withdrawal of application.* An applicant may withdraw the application at any time by written notice to the zoning administrator. However, any withdrawal of an

application after the giving of the first notice as required in subsection (e) of this section shall be considered, for the purposes of subsection (i) of this section, a denial of the application.

- (i) *Effect of denial on subsequent petitions.* When the board of commissioners shall have denied an application or the application shall have been withdrawn after the first notice of the public hearing thereon, the zoning administrator shall not accept another application for the same or similar amendment affecting the same property or a portion of it until the expiration of a one-year period, extending from the date of denial or withdrawal, as appropriate.
- (j) *Fees.* Fees for filing an application for an amendment shall be set by resolution of the board of commissioners.

(Code 1995, § 515.265)